IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

RP.No. 658 of 2007(A)

AGAINST THE JUDGEMENT/ORDER IN CRP.596/2006 IN CMA 9/06 OF ADDL.D.C.II, KOZHIKODE IN OP 4/04 OF SUB COURT, QUILANDY.

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REVIEW PETITIONER/REVISION PETITIONER:

K. KUNHIRAMAN, S/O. KUNHIKANARAN,
KANDIYIL HOUSE, P.O. MELUR, MELUR AMSOM, DESOM,
KOYILANDY TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.K.KUNHIRAMAN-(PARTY IN PERSON)

RESPONDENTS: RESPONDENTS:
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1. KERALA STATE FINANCIAL CORPORATION
REP. BY ITS MANAGING DIRECTOR, HEAD OFFICE,
VELLAYAMBALAM, THIRUVANANTHAPURAM.

2. THE DISTRICT MANAGER,
KERALA FINANCIAL CORPORATION, KALLAI ROAD,
CALICUT.

3. P.M. JAISON, S/O. T.P.MATHEW,
PAIKOTHIL HOUSE, CHENGOTTUKAVE VILLAGE,
MELUR DESOM, KOYILANDY TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.P.R.SREEJITH
SRI.V.B.UNNIRAJ, SC, KFC

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.
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R.P. 658 OF 2007
IN C.R.P. NO. 596 OF 2006
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Dated this the 19th day of July, 2007.

O R D E R

This review petition is filed by the party in person to review the order passed in the CRP dated 14.6.07. The petitioner had filed an indigent application to set aside the sale of the property conducted by KSFC for realisation of the amount due to them. Therefore, the sale is coming under Article 99 of the Limitation Act of 1963. Article 99 deals with the subject, "To set aside a sale by a civil or revenue Court or a sale for arrears of Government revenue or for any demand recoverable as such arrears" and the stipulated period is one year. The party in person strongly contends that it is Article 59 of the Limitation Act that will be applicable and therefore he will get 3 years time. Article 59 of the Limitation Act deals with the question of cancellation or setting aside an instrument or decree or for the rescission of contract. Here, the sale is required solely for the purpose of realisation and revenue or sale by civil court and it is only

Article 99 of the Limitation Act that will apply and not Article 59. There is an admission by the petitioner that he has come to know about the sale on 24.9.01. So, naturally he should have filed the suit on or before 23.9.02. But he had filed the case only on 19.8.04. At the very inception of the matter I had considered it in detail and the present review petitioner was represented by a lawyer as well. I had found that Article that is applicable to this case is Article 99 and not Article 59 and therefore found that the Court below was justified in dismissing the application. Therefore, I do not find any error apparent on the face of the record so as to review it under Order 47 R1 of CPC or any other materials which permits this Court to review the order. Therefore, the review petition lacks merit and it is dismissed.

M.N. KRISHNAN, JUDGE.

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